

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

DON GIBSON, LAUREN CRISS, JOHN
MEINERS, and DANIEL UMPA, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, *et al.*,

Defendants.

Civil Action No. 4:23-cv-00788-SRB

[Consolidated with 4:23-cv-00945-SRI

Hon. Stephen R. Bough

**PLAINTIFFS' CONSENTED MOTION REGARDING
DOCUMENTS PRODUCED IN *BURNETT* AND *MOEHL***

Plaintiffs Don Gibson, Lauren Criss, John Meiners, and Daniel Umpa hereby move for an order governing the disclosure of documents produced in *Burnett v. NAR*, No. 4:19-cv-00332 (W.D. Mo.), and *Moehrl v. NAR*, No. 1:19-cv-01610 (N.D. Ill.) (together, the “Prior Litigations”). In support, Plaintiffs state as follows:

1. Defendants in this case have requested the disclosure of documents produced in the Prior Litigations. Plaintiffs do not generally oppose disclosure of these documents to Defendants, with the exception of (i) documents produced by the named plaintiffs in the Prior Litigations who are not named plaintiffs in this action (the “Prior Plaintiffs”) and relevant portions of expert reports and other materials that disclose information produced by the Prior Plaintiffs, and (ii) expert backup materials (collectively, the “Excluded Materials”).¹ However, a Court order is necessary for compliance with the protective orders entered in both the Prior Litigations.

¹ Defendants reserve all rights to seek production of specific expert backup materials following their review of the expert materials. Plaintiffs reserve all rights to object to the production of expert backup materials.

2. The protective orders in the Prior Litigations outline the procedure for disclosure of documents following a Court order issued in separate litigation. If a party in the Prior Litigations is served with an “order issued in other litigation that would compel disclosure of any Information designated in [the Prior Litigations] as by another Party, [that party] must so notify the designating Party, and the Producing Party if different from the designating Party, in writing, immediately and in no event more than three court days after receiving the subpoena or order.” Protective Order at ¶ 16(a), *Burnett v. NAR*, 4:19-cv-00332 (Sept. 12, 2019) (Dkt. No. 92) (“*Burnett* Protective Order”); Agreed Confidentiality Order at ¶ 16(a), *Moehrl v. NAR*, 1:19-cv-01610 (Aug. 20, 2019) (“*Moehrl* Protective Order”) (Dkt. No. 125).

3. Under the terms of the protective orders, “[t]he designating Party shall bear the burden and the expense of seeking protection . . . of its Confidential or Highly Confidential – Outside Counsel Eyes Only Information” in the Court that issues an order compelling the disclosure of information produced in the Prior Litigations. *Burnett* Protective Order at ¶ 16(c); *Moehrl* Protective Order at ¶ 16(c).

Accordingly, Plaintiffs request that the Court enter an Order: (i) requiring Plaintiffs to produce all documents in their or their counsel’s possession produced in the Prior Litigations, other than the Excluded Materials, including all documents produced by any party or third party to the Prior Litigations; all transcripts, including exhibits thereto, of all depositions taken in the Prior Litigations; all expert reports submitted by any party in the Prior Litigations, including but not limited to all opening reports, rebuttal reports, and responsive reports, as well as all exhibits, appendices, or other attachments thereto; all produced documents or materials referenced or relied upon by any expert in connection with the preparation of any expert report submitted in the Prior Litigations other than the Excluded Materials; and all affidavits, declarations, or other statements

submitted by or on behalf of any expert in the Prior Litigations, to Defendants in this litigation (subject to the ability of the original producing parties to object to such disclosure); (ii) requiring Counsel for Plaintiffs to provide notice of this Order to all producing parties in the Prior Litigations within three days of this Order; (iii) providing all producing parties in the Prior Litigations 30 days from the date notice is provided to file an objection in this Court to the disclosure of documents from the Prior Litigations; and (iv) requiring Plaintiffs to produce all documents produced in the Prior Litigations (a) within 60 days of this Order, as to all documents for which the producing party does not timely file an objection to disclosure, or (b) within 30 days of an order by the Court ruling on a producing party's objection and permitting such disclosure.

Date: July 24, 2025

**HAGENS BERMAN SOBOL SHAPIRO
LLP**

/s/ Steve W. Berman

Steve W. Berman (*pro hac vice*)
1301 Second Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 623-7292
steve@hbsslaw.com

Rio S. Pierce (*pro hac vice*)
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Telephone: (510) 725-3000
riop@hbsslaw.com

Jeannie Evans (*pro hac vice*)
Nathan Emmons (Mo. Bar. No. 70046)
455 North Cityfront Plaza Drive, Suite 2410
Chicago, IL 60611
Telephone: (708) 628-4949
jeannie@hbsslaw.com
nathane@hbsslaw.com

Respectfully Submitted,

KETCHMARK AND MCCREIGHT P.C.

Michael Ketchmark MO # 41018
Scott McCreight MO # 44002
11161 Overbrook Rd. Suite 210
Leawood, Kansas 66211
Tele: (913) 266-4500
mike@ketchmclaw.com
smccreight@ketchmclaw.com

WILLIAMS DIRKS DAMERON LLC

Eric L. Dirks MO # 54921
1100 Main Street, Suite 2600
Kansas City, MO 64105
Tele: (816) 945 7110
Fax: (816) 945-7118
dirks@williamsdirks.com

SUSMAN GODFREY L.L.P.

Marc M. Seltzer (*pro hac vice*)
Steven G. Sklaver (*pro hac vice*)
1900 Avenue of the Stars, Suite 1400
Los Angeles, California 90067
Telephone: (310) 789-3100
mseltzer@susmangodfrey.com

**COHEN MILSTEIN SELLERS &
TOLL PLLC**

Benjamin D. Brown (*pro hac vice*)
Robert A. Braun (*pro hac vice*)
Sabrina Merold (*pro hac vice*)
1100 New York Ave. NW, Fifth Floor
Washington, DC 20005
Telephone: (202) 408-4600
bbrown@cohenmilstein.com
rbraun@cohenmilstein.com
smerold@cohenmilstein.com

Daniel Silverman (*pro hac vice*)
769 Centre Street
Suite 207
Boston, MA 02130
Telephone: (617) 858-1990
dsilverman@cohenmilstein.com

BOULWARE LAW LLC

Brandon J.B. Boulware MO # 54150
Jeremy M. Suhr MO # 60075
Andrew J. Ascher MO # 74551
1600 Genessee Street, Suite 956A
Kansas City, MO 64102
Tele: (816) 492-2826
Fax: (816) 492-2826
brandon@boulware-law.com
jeremy@boulware-law.com
andrew@boulware-law.com

ssklaver@susmangodfrey.com

Beatrice C. Franklin (*pro hac vice*)
One Manhattan West
New York, New York 10001
Telephone: (212) 336-8330
bfranklin@susmangodfrey.com

Matthew R. Berry (*pro hac vice*)
Floyd G. Short (*pro hac vice*)
Alexander W. Aiken (*pro hac vice*)
401 Union St., Suite 3000
Seattle, Washington 98101
Telephone: (206) 516-3880
mberry@susmangodfrey.com
fshort@susmangodfrey.com
aaiken@susmangodfrey.com

Attorneys for Plaintiffs and the Class

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2025, a true and correct copy of the foregoing was electronically filed using the Court's CM/ECF system, which caused notice and a copy of this filing will be served upon all counsel of record.

/s/ Steve W. Berman

STEVE W. BERMAN